

REMARKS

Applicants respectfully request reconsideration of this application, and reconsideration of the Office Action dated December 7, 2004. Upon entry of this Amendment, claims 1, 3-16, and 18-29 and 31-45 will remain pending in this application. Claims 2, 17, and 30 are canceled and new claims 46-48 are added. The amendments to the claims are supported by the specification and original claims. No new matter is incorporated by this Amendment. Moreover, no additional claim fees are believed due as a result of the added claims.

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Claims 2, 4, 15, 17, and 30 were objected to because of informalities. Specifically, the word “proanthocyanidine” was misspelled. In response, Applicants have corrected the spelling of the word in the claims thereby obviating this objection. Hence, withdrawal of the objection is respectfully requested.

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Claims 1-3, 5-8, 16-18, 20-23, 26-34, and 36-38 were rejected under 35 U.S.C. § 102(e) as purportedly anticipated by Petrus (U.S. Pat. No. 6,573,299). The Office Action asserts Petrus either explicitly or inherently teaches each feature of the claims. Applicants respectfully traverse.

Independent claim 1 (from which claims 3-15 and 46 ultimately depend) concerns a process for stabilizing antioxidant compounds selected from the group consisting of levogyrous acid (LAA), proanthocyanidines (OPCs) and mixtures thereof. The method includes contacting the antioxidant compounds, in an aqueous medium, with an oxygen-removing compound, a metallic ion sequestering compound and a reducing agent.

Independent claim 16 (from which claims 18-27 and 47 ultimately depend) concerns an aqueous composition that includes at least one antioxidant compound selected from the group consisting of levogyrous ascorbic acid (LAA), proanthocyanidines (OPCs) and mixtures thereof. The composition includes an oxygen-removing compound, a metallic ion sequestering agent and an oxidation reaction reverting compound.

In addition, independent claim 28 (from which claims 29, 31-45 and 48 ultimately depend) concerns a two-phase aqueous cosmetic composition. The composition includes, in a first phase, at least one antioxidant compound selected from the group consisting of levogyrous ascorbic acid (LAA), proanthocyanidines (OPCs) and mixtures thereof, an oxygen-removing compound, a metallic ion sequestering agent and a reducing agent and, in a second phase, at least one hydrating compound.

Each invention of the independent claim includes a stable LAA or OPC in a water medium. This is different from the teachings of Petrus which only teaches employing ascorbic acid derivatives (such as palmitate) when water is used. See, for example, Col. 10, Lines 28-32. Petrus neither teaches nor fairly suggests mixing a stable LAA with water. Hence, Petrus fails to teach or fairly describe every feature of the claims.

The above remarks overcome this rejection. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

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Claims 1-3, 5-14, 16-18, 20-38, and 41-45 were rejected under 35 U.S.C. § 103(a) as purportedly obvious based on Liu et al. (U.S. Pat. No. 6,193,956). Applicants also respectfully traverse this rejection.

Liu describes a process and composition for stabilizing a retinoid. The process includes mixing ascorbic acid in the aqueous phase. However, there is no teaching or suggestion that the ascorbic acid is stable in the aqueous phase. In fact, Liu teaches that the composition cannot come in contact with oxygen. See Col. 12, Lines 1-4 and 45-54. Liu also teaches that the recipient should not allow the composition to be in contact with air. Hence, there is nothing in the teachings of Liu which show that an antioxidant can be used in an aqueous medium without the drawbacks associated with instability. Moreover, there is nothing in the teachings of Liu which would motivate or fairly suggest the use of a stable LAA in an aqueous medium.

The above remarks overcome this rejection. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

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Claims 4 and 19 were rejected under 35 U.S.C. § 103(a) as purportedly obvious based on Petrus in view of Lerner (U.S. Pat. No. 5,470,874).

Claim 15 was rejected under 35 U.S.C. § 103(a) as purportedly obvious based on Liu et al. in view of Lerner (U.S. Pat. No. 5,470,874).

In addition, claims 39 and 40 were rejected under 35 U.S.C. § 103(a) as purportedly obvious based on Petrus in view of Lerner, and further in view of KR 9210246.

Each of the above rejections are addressed together as similar issues apply to all three. Moreover, Applicants respectfully traverse all three rejections.

The deficiencies of the primary references Petrus and Liu are discussed above. Neither of the secondary references (i.e. Lerner or KR 9210246) remedy these deficiencies. None of the cited references teach or fairly suggest a method or composition which includes a stable LAA in an aqueous medium. Moreover, there is nothing in the teachings of the cited references which would motivate or fairly suggest the use of a stable LAA in an aqueous medium.

Hence, each of the above rejections are overcome and the withdrawal of each is respectfully requested.

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Claims 28-45 are provisionally rejected under the doctrine of obviousness-type double patenting as purportedly obvious based on claims 1-21 of co-pending appln. ser. no. 10/030,977.

Applicants respectfully request this rejection be held in abeyance until allowable subject matter is indicated in the present application at which point Applicants will address the issue of whether to file a Terminal Disclaimer.

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Claim 12 was rejected under 35 U.S.C. § 112, second paragraph, as purportedly indefinite. Specifically, the Office Action asserted the term "reducing agent" in claim 12 lacks antecedent basis. However, Applicants point out that claim 12 depends from claim 1. Moreover, claim 1 introduces the terminology "reducing agent." Hence, withdrawal of this rejection is requested.

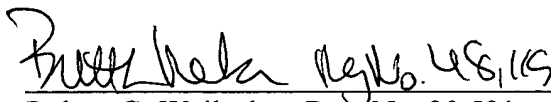
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If any fees under 37 C.F.R. §§ 1.16 or 1.17 are due in connection with this filing, please charge the fees to Deposit Account No. 02-4300; Order No. 032286.010.

If an extension of time under 37 C.F.R. § 1.136 is necessary that is not accounted for in the papers filed herewith, such an extension is requested. The extension fee should be charged to Deposit Account No. 02-4300; Order No. 032286.010.

Respectfully submitted,
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Dated: June 3, 2005
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